

01 OCT 2007



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In re Application of
PAULINE HARDY et al.
Application No.: 10/561,293
PCT No.: NONE
Deposit date: 20 December 2005
Attorney Docket No.: Boat - TM
For: BOAT LATCH

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: DECISION ON
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: PETITION UNDER
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: UNDER 37 CFR 1.182
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This is in response to applicant's "Petition under 37 CFR 1.182" to requesting that papers filed on 20 December 2005 be processing as an application filed under 35 U.S.C. 111(a). The petition was filed in the United States Patent and Trademark Office on 06 August 2007.

On 20 December 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified an Australian patent application AU 20044900602. The papers submitted included a specification entitled Boat Latch, claims and drawings and a certified copy of an Australian provisional application. The basic national fee, search fee and examination fee were also paid, totaling to \$500. On 02 March 2007, applicant filed a copy of the papers originally filed.

Applicant used Form PTO-1390, entitled "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371". This form is used when applicant has filed an international application and wishes to file that application, entering the U.S. national stage. It is not the transmittal letter used to file a regular utility application in the U.S. under 35 U.S.C. 111(a).

On 26 July 2007, applicant was advised that a review of the application papers revealed that the Transmittal Letter and other papers did not identify a PCT international application. The Transmittal Letter (Form PTO-1390) used by applicant identified an Australian application "AU20044900602". An Australian application did not entitle applicant to submit his patent application under 35 U.S.C. 371, which is reserved for the U.S. national stage of a PCT international application. Applicant was further advised that in order to continue processing the papers as a national stage application, applicant must submit a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 20 December 2005 and provide the correct PCT number for his international application. This petition must be accompanied by the \$400 petition fee and a corrected version of the Transmittal Letter (Form

PTO-1390).

On 06 August 2007, applicant filed the instant petition under 37 CFR 1.182 requesting treatment of the application papers under 35 U.S.C. 111(a) filed on 20 December 2005 in the above referenced application. A petition under 37 CFR 1.182 is not necessary as applicant is not correcting an international application number. The \$400 petition fee will be refunded.

Applicant's instructions indicate that the papers assigned application no. 10/561,293 be treated as filed under 35 U.S.C. 111(a). In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a). See MPEP 1893.03(a).

CONCLUSION

For the reason set forth above, the petition under 37 CFR 1.182 is **DISMISSED AS MOOT.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for further processing and to accord a filing date of **20 December 2005.**


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